



DOCKET NO.: C1039.70074US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:

Krieg et al.

Serial No.:

10/679,710

Confirmation No.:

9983

Filed:

October 3, 2003

For:

IMMUNOSTIMULATORY NUCLEIC ACID MOLECULES

Examiner:

Michelle S. Horning

Art Unit:

1648

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 315th day of January, 2007.

Emily E. Zykauska

MAIL STOP AMENDMENT

Commissioner For Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

- Information Disclosure Statement
- PTO Form 1449 with cited references
- Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 646-8000, Boston, Massachusetts.

A check is not enclosed. If a fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,

By:

Helen C. Lockhart, Ph.D., Reg. No.: 39,248

Wolf, Greenfield & Sacks, P.C.

600 Atlantic Avenue

Boston, Massachusetts 02210-2206

Telephone: (617) 646-8000

Docket No.: C1039.70074US00

Date: January 31, 2007

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Emily E. Zukauskas

MAIL STOP AMENDMENT

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

STATEMENT FILED PURSUANT TO THE DUTY OF DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing of a first Office action on the merits in the above-identified case.

No fee or certification is required.

Conf. No.: 9983

PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified PTO/SB/08). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

The Applicant would like to bring to the Examiner's attention the following co-pending applications that may contain subject matter related to this application:

Serial No.	Filing Date	Inventor(s)	Docket No.
09/316,199	05-21-1999	McCluskie et al.	*C1040.70006US00
09/337,584	06-21-1999	Krieg et al.	*C1039.70020US00
09/337,893	06-21-1999	Krieg	*C1039.70022US00
09/630,319	07-31-2000	Krieg et al.	*C1039.70042US00
09/669,187	09-25-2000	Krieg et al.	*C1039.70035US00
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10/187,489	07-02-2002	Krieg et al.	C1039.70062US00
10/811,226	03-26-2004	Wagner et al.	*C1041.70005US01
11/503,377	08-11-2006	Krieg et al.	*C1039.70061US01
11/507,079	08-18-2006	Krieg et al.	*C1039.70035US04
11/526,197	09-22-2006	Krieg et al.	*C1039.70048US23
11/526,896	09-22-2006	Bratzler et al.	*C1037.70013US03
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11/543,314	10-04-2006	Lipford et al.	*C1041.70036US02
11/595,823	11-10-2006	Wagner et al.	*C1041.70035US01
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11/603,978	11-22-2006	Forsbach et al.	*C1041.70053US02
11/629,106	12-08-2006	Lipford et al.	*C1041.70027US01
11/645,106	12-22-2006	Krieg et al.	*C1039.70083US17

^{*}A copy of this reference is not provided as the Office has waived the requirement under 37 C.F.R. 1.98(a)(2)(iii) for submitting a copy of a cited U.S. patent application if it is scanned to the Image File Wrapper system and is available on Private PAIR.

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<u>PART III: Explanation of Non-English Language References and Remarks Concerning Other</u> Information Cited

The following are remarks concerning the other information cited:

The instant patent application derives priority from US 6,207,646 B1, which was involved in an Interference (Interference No. 105,171). In view of the priority, Applicants have included on the attached 1449 a listing of all of the motions filed, the judgment rendered by the Board of Patent Appeals and Interferences, appeal briefs, and appeal decision, which considered the 35 U.S.C. §135(b)(1) motion dispositive. Copies of these documents were previously submitted in Serial No. 09/818,918, filed March 27, 2001, to which the instant application derives priority. If the Examiner would like any additional information on this subject, she is encouraged to contact Applicant's representative at the number listed below.

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

- 1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
- 2. The enclosed form PTO-1449 (modified PTO/SB/08) be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
- 3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

Serial No.: 10/679,710 - 4 - Art Unit: 1648

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By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,

By:

Helen C. Lockhart, Ph.D., Reg. No. 39,248

Wolf, Greenfield & Sacks, P.C.

600 Atlantic Avenue

Boston, Massachusetts 02210-2206

Telephone: (617) 646-8000

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APPLICATION NO.: 10/679,710 ATTY. DOCKET NO.: C1039.70074US00 FORM PTO-1449/A and B (modified PTO/SB/08) FILING DATE: October 3, 2003 CONFIRMATION NO.: 9983 RAMATION DISCLOSURE ATEMENT BY APPLICANT Krieg et al. APPLICANT: **GROUP ART UNIT:** 1648 EXAMINER: Michelle S. Horning of 17

U.S. PATENT DOCUMENTS

Examiner's	Cite	U.S. Patent Doc	ument	Name of Patentee or Applicant of Cited	Date of Publication or Issue
Initials #	No.	Number	Kind Code	Document	of Cited Document MM-DD-YYYY
	Al	5,594,122		Friesen	01-14-1997
•	A2	5,663,153		Hutcherson et al.	09-02-1997
	A3	5,679,647		Carson et al.	10-21-1997
	A4	5,723,335		Hutcherson et al.	03-03-1998
-	A5	5,728,518		Carmichael	03-17-1998
	- A6	5,804,566		Carson et al.	09-08-1998
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	Al1	6,194,388	B1	Krieg et al.	02-27-2001
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	A13	6,214,806	B1	Krieg et al	04-10-2001
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	A15	6,221,882		Macfarlane	04-24-2001
	A16	6,225,292	B1	Raz et al.	05-01-2001
	A17	6,239,116	B1	Krieg et al.	05-29-2001
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	A19	6,339,630		Macfarlane	06-04-2002
	A20	6,406,705	B1	Davis et al.	06-18-2002
	A21	6,426,336	Bl	Carson et al.	07-30-2002
	A22	6,429,199	B1	Krieg et al.	08-06-2002
	A23	6,479,504		Macfarlane et al.	11-12-2002
	A24	6,498,148	B1	Raz	12-24-2002
	A25	6,514,948	B1	Raz et al.	02-04-2003
	A26	6,521,637		Macfarlane	02-18-2003
	A27	6,534,062	B1	Raz et al.	03-18-2003
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	A29	6,558,670	B1	Friede et al.	05-06-2003
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	A31	6,589,940	B1	Raz et al.	07-08-2003
	Á32	6,610,308		Haensler	08-26-2003
	A33	6,610,661	B1	Carson et al.	08-26-2003

EXAMINER:	DATE CONSIDERED:

[#] EXAMINER: Initial if reference considered, whether or notcitation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

FORM PTO-	1449/A an	d B (modified PTO/SB/08)	APPLIC	CATION NO.: 10/679,710	ATTY. DOCKET NO.: C1039.70074US00
INFORMATION DISCLOSURE		FILING	FILING DATE: October 3, 2003 CONFIRMATION NO.: 9983		
		BY APPLICANT	APPLIC	CANT: Krieg et al.	
Sheet	2	of 17	GROUI	P ART UNIT: 1648	EXAMINER: Michelle S. Horning
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	A35	6,653,292	B1	Krieg et al.	11-25-2003
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	A41	6,943,240		Bauer et al.	09-13-2005
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		,	FILING	DATE: October 3, 2003	CONFIRMATION NO.: 9983
		ON DISCLOSURE BY APPLICANT	APPLICA	ANT: Krieg et al.	
Sheet	3	of 17	GROUP	ART UNIT: 1648	EXAMINER: Michelle S. Horning
Sheet	<u> </u>	01 17			
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	A71	2003-0115773	Al	Raz et al.	07-03-2003
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			GROU	P ART UNIT: 1648	EXAMINER: Michelle S. Horning	
Sheet	4	of 17	GROO		EAAWINER. Whenche S. Horning	
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CODM DTC	DRM PTO-1449/A and B (modified PTO/SB/08)			APPLICATION NO.: 10/679,710			ATTY. DOCKET NO.: C1039.70074US00	
	INFORMATION DISCLOSURE		FILING	FILING DATE: October 3, 2003		CONFIRMATION NO.: 9983		
		Γ BY APPLICANT		CANT:	Krieg et al.			
Sheet	5	of 17	GROU	P ART UNIT:	1648	EXAMINER	: Michelle S. Horning	
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A165	2005-0148537	Al	Krieg et al.	07-07-2005
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A175	2005-0239732	A1	Krieg et al.	10-27-2005
A176	2005-0239733	A1	Jurk et al.	10-27-2005
A177	2005-0239734	A1	Uhlmann et al.	10-27-2005

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^{*}EXAMINER: Initial if reference considered, whether or notcitation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

FORM PTO-1449/A and B (modified PTO/SB/08)				APPLICATION NO.:	10/679,710	ATTY. DOCKET NO.: C1039.70074US00
, , ,			FILING DATE:	October 3, 2003	CONFIRMATION NO.: 9983	
	INFORMATION DISCLOSURE STATEMENT BY APPLICANT			APPLICANT:	Krieg et al.	
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FORM PTO	D-1449/A and B (modifie	1 PTO/SR/08)	APPLICATION NO.:	10/679,710	ATTY. DOCKET NO.: C1039.70074US00
FORM PTO-1449/A and B (modified PTO/SB/08)				FILING DATE:	October 3, 2003	CONFIRMATION NO.: 9983
1	INFORMATION DISCLOSURE STATEMENT BY APPLICANT			APPLICANT:	Krieg et al.	
		GROUP ART UNIT:	1648	EXAMINER: Michelle S. Horning		
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-	*C134	Patent Interference No. 105,171. Iowa Preliminary Motion 3 (for judgment based on failure to comply with 35 U.S.C. 135(b)). (Electronically filed, unsigned). June 7, 2004.	
	*C135	Patent Interference No. 105,171. Iowa Preliminary Motion 4 (for judgment of no interference in fact). (Electronically filed, unsigned). June 7, 2004.	
	*C136	Patent Interference No. 105,171. Iowa Preliminary Motion 5 (for judgment based on lack of enablement). (Electronically filed, unsigned). June 7, 2004.	
	*C137	Patent Interference No. 105,171. Iowa Preliminary Motion 6 (for judgment based on lack of adequate written description). (Electronically filed, unsigned). June 7, 2004.	
	*C138	Patent Interference No. 105,171. Iowa Preliminary Motion 7 (motion to redefine interference to designate claims as not corresponding to the Count). (Electronically filed, unsigned). June 7, 2004.	
	*C139	Patent Interference No. 105,171. Iowa Preliminary Motion 8 (contingent motion to redefine the Count). (Electronically filed, unsigned). June 7, 2004.	,
	*C140	Patent Interference No. 105,171. Iowa Preliminary Motion 9 (motion for benefit of earlier application). (Electronically filed, unsigned). June 7, 2004.	
	*C141	Patent Interference No. 105,171. Iowa Preliminary Motion 10 (contingent motion to redefine the interference by adding a continuation application). (Electronically filed, unsigned). July 2, 2004.	
	*C142	Patent Interference No. 105,171. Regents of the University of California Opposition 3 (to Iowa Preliminary Motion 3 for judgment under 35 USC 135(b)). September 9, 2004.	
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FORM PTO-1449/A and B (modified PTO/SB/08) INFORMATION DISCLOSURE STATEMENT BY APPLICANT			APPLICATION NO.:	10/679,710	ATTY. DOCKET NO.: C1039.70074US00	
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*C143	Patent Interference No. 105,171. Regents of the University of California Opposition 4 (to Iowa Preliminary Motion 4 for judgment of no interference in fact). September 9, 2004.	
*C144	Patent Interference No. 105,171. Regents of the University of California Opposition 5 (to Iowa Preliminary Motion 5 for judgment that UC's claim is not enabled). September 9, 2004.	-
*C145	Patent Interference No. 105,171. Regents of the University of California Opposition 6 (to Iowa Preliminary Motion 6 for judgment based on lack of adequate written description). September 9, 2004.	
*C146	Patent Interference No. 105,171. Regents of the University of California Opposition 7 (to Iowa Preliminary Motion 7 to redefine the interference). September 9, 2004.	
*C147	Patent Interference No. 105,171. Regents of the University of California Opposition 8 (to Iowa Preliminary Motion 8 to redefine the Count). September 9, 2004.	
*C148	Patent Interference No. 105,171. Regents of the University of California Response 9 (to Iowa Contingent Motion 9 for benefit). September 9, 2004.	
*C149	Patent Interference No. 105,171. Regents of the University of California Opposition 10 (to Iowa Contingent Motion 10 to redefine the interference). September 9, 2004.	
*C150	Patent Interference No. 105,171. Regents of the University of California Opposition 11 (to Iowa Contingent Motion 11 to suppress). October 15, 2004.	
*C151	Patent Interference No. 105,171. Iowa Reply 3 (in support of Iowa Preliminary Motion 3 for judgment under 35 U.S.C. §135(b)) (Electronically filed, unsigned). October 15, 2004.	
*C152	Patent Interference No. 105,171. Iowa Reply 4 (in support of Iowa Preliminary Motion for judgment of no interference in fact) (Electronically filed, unsigned). October 15, 2004.	
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*C156	Patent Interference No. 105,171. lowa Reply 8 (in support of Iowa Preliminary Motion 8 to redefine the count) (Electronically filed, unsigned). October 15, 2004.	
*C157	Patent Interference No. 105,171. Iowa Reply 10 (in support of Iowa Preliminary Motion 10 to redefine the interference) (Electronically filed, unsigned). October 15, 2004.	
*C158	Patent Interference No. 105,171. Iowa Reply 11 (in support of Iowa Miscellaneous Motion to suppress). (Electronically filed, unsigned). October 18, 2004.	
*C159	Patent Interference No. 105,171. Regents of the University of California Preliminary Statement. June 7, 2004.	
*C160	Patent Interference No. 105,171. Regents of the University of California Preliminary Motion 1 (to designate additional claims of Iowa patent as corresponding to the Count). June 7, 2004.	
*C161	Patent Interference No. 105,171. Regents of the University of California Preliminary Motion 2 (for judgment based on lack of written description support and introducing new matter). June 7, 2004.	
*C162	Patent Interference No. 105,171. Regents of the University of California Preliminary Motion 3 (for judgment based on anticipation). June 7, 2004.	

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*C163	Patent Interference No. 105,171. Regents of the University of California Preliminary Motion 4 (for judgment based on obviousness). June 7, 2004.	
*C164	Patent Interference No. 105,171. Regents of the University of California Preliminary Motion 5 (for judgment based on anticipation). June 7, 2004.	
*C165	Patent Interference No. 105,171. Regents of the University of California Preliminary Motion 6 (for judgment based on inequitable conduct). June 7, 2004.	
*C166	Patent Interference No. 105,171. Regents of the University of California Contingent Preliminary Motion 7 (for benefit of an earlier application under 37 CFR 1.633(j)). July 2, 2004.	
*C167	Patent Interference No. 105,171. Regents of the University of California Contingent Preliminary Motion 8 (to add additional claims under 37 CFR 1.633(c)(2) and (i)). July 2, 2004.	
*C168	Amended Claims for Application Number 09/265,191, filed March 10, 1999.	
*C169	Patent Interference No. 105,171. Iowa Opposition 1 (opposition to motion to designate additional claims as corresponding to the Count) (Electronically filed, unsigned). September 9, 2004.	
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*C171	Patent Interference No. 105,171. Iowa Opposition 3 (opposition to motion for judgment based on anticipation) (Electronically filed, unsigned). September 9, 2004.	
*C172	Patent Interference No. 105,171. Iowa Opposition 4 (opposition to motion for judgment based on obviousness) (Electronically filed, unsigned). September 9, 2004.	-
*C173	Patent Interference No. 105,171. Iowa Opposition 5 (opposition to motion for judgment based on anticipation) (Electronically filed, unsigned). September 9, 2004.	
*C174	Patent Interference No. 105,171. Iowa Opposition 6 (opposition to motion for judgment based on inequitable conduct) (Electronically filed, unsigned). September 9, 2004.	
*C175	Patent Interference No. 105,171. Iowa Opposition 7 (opposition to motion for benefit of an earlier application under 7 CFR 1.633(j)) (Electronically filed, unsigned). September 9, 2004.	
*C176	Patent Interference No. 105,171. Iowa Opposition 8 (opposition to motion to add additional claims under 37 CFR 1.633 (2) and (i)) (Electronically filed, unsigned). September 9, 2004.	
*C177	Patent Interference No. 105,171. Regents of the University of California Reply 1 (to Iowa's opposition to UC's motion to designate Iowa claims as corresponding to the Count). October 15, 2004.	
*C178	Patent Interference No. 105,171. Regents of the University of California Reply 2 (to Iowa's opposition to UC Preliminary Motion 2 for Judgment). October 15, 2004.	
*C179	Patent Interference No. 105,171. Regents of the University of California Reply 3 (to Iowa's Opposition to UC Preliminary Motion 3 for Judgment). October 15, 2004.	
*C180	Patent Interference No. 105,171. Regents of the University of California Reply 4 (to Iowa's Opposition to UC Preliminary Motion 4 for Judgment). October 15, 2004.	
*C181	Patent Interference No. 105,171. Regents of the University of California Reply 5 (to lowa's Opposition to UC Preliminary Motion 5 for Judgment). October 15, 2004.	
*C182	Patent Interference No. 105,171. Regents of the University of California Reply 6 (to Iowa's opposition to UC Preliminary Motion 6 for judgment). October 15, 2004.	
*C183	Patent Interference No. 105,171. Regents of the University of California Reply 7 (to Iowa's Opposition to UC Preliminary Motion 7 for Benefit). October 15, 2004.	

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*C1	Patent Interference No. 105,171. Regents of the University of California Reply 8 (to Iowa's Opposition to UC Preliminary Motion 8 to add additional claims). October 15, 2004.
*C1	Patent Interference No. 105,171. Decision on Motion under 37 CFR §41.125. March 10, 2005.
*C1	Patent Interference No. 105,171. Judgment and Order. March 10, 2005.
*C1	Patent Interference No. 105,171. Regents of the University of California. Brief of Appellant. July 5, 2005.
*C1	Patent Interference No. 105,171. University of Iowa and Coley Pharmaceutical Group, Inc. Brief of Appellees. August 17, 2005.
*C1	Patent Interference No. 105,171. Regents of the University of California. Reply Brief of Appellant. September 6, 2005.
*C1	Patent Interference No. 105,171. Regents of the University of California. Decision of CAFC. July 17, 2006.

^{*}a copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. 09/818,918, filed March 27, 2001, and relied upon for an earlier filing date under 35 U.S.C. 120 (continuation, continuation-in-part, and divisional applications).

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